



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TJR

Docket No: 850-00

18 May 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 2 May 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record, and applicable statutes, regulations, and policies.

After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found you enlisted in the Marine Corps on 6 October 1970 at the age of 17. Your record reflects that on 14 December 1970 you received nonjudicial punishment (NJP) for disobedience and were awarded correctional custody for six days and a \$20 forfeiture of pay.

Your record further reflects that on 17 January 1973 you received NJP for two periods of unauthorized absence (UA) totalling 161 days. The punishment imposed was forfeitures totalling \$320 and reduction to paygrade E-2, which was suspended for three months. On 23 January 1973 you were convicted by summary court-martial (SCM) of two periods of UA totalling 33 days. You were sentenced to confinement at hard labor for 30 days, forfeitures totalling \$220, and reduction to paygrade E-1. The reduction was suspended for four months.

On 26 April 1973 you were notified of pending administrative separation action by reason of unfitness. After consulting with legal counsel you waived your right to submit a statement in rebuttal to the discharge or to present your case to an

administrative discharge board (ADB). Subsequently, your commanding officer recommended you be issued an other than honorable discharge by reason of unfitness. The discharge authority approved the foregoing recommendation and directed your commanding officer to issue you an other than honorable discharge. On 10 May 1973 you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity, good post service conduct, and your contention that you would like your discharge upgraded. However, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given the seriousness nature of your misconduct, specifically, your frequent and lengthy periods of UA from the Marine Corps. The Board also noted that you waived your right to an ADB, your best opportunity to receive a better characterization of service. Given all the circumstances of your case, the Board concluded the your discharge was proper and no change is warranted. Accordingly, your application has been denied.

The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director